



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP MNSD

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held, via teleconference, on August 6, 2019. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the hearing. However, the Landlord did not. The Tenant testified that she sent a copy of the Notice of Hearing along with supporting documentary evidence to the Landlord by registered mail on June 19, 2019. Proof of mailing was provided into evidence. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. I find the Landlord is deemed to have received this package on June 24, 2019.

The Tenant was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

During the hearing, the Tenant expressed that she no longer wants the return of her personal property (mattress and bed frame) because the Landlord has allowed other people to use it. The Tenant withdrew this request for this hearing, and I grant the Tenant leave to apply for monetary compensation, should she wish to apply for compensation for this matter, in the future.

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

Background and Evidence

The Tenant stated that:

- she paid a security deposit of \$325.00 and that the Landlord still holds this amount.
- she moved out on May 1, 2019, the same day she provided her forwarding address in writing to the Landlord, in person.
- she returned and delivered a second letter to the Landlord on June 10, 2019, with her forwarding address in writing because the Landlord never gave her money back.
- she believes the Landlord does not follow the tenancy laws, and does this on purpose.
- She did not authorize the Landlord to retain any of the security deposit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, the Tenant moved out of the rental unit on May 1, 2019, which I find reflects the end of the tenancy. The Tenant provided her forwarding address in writing on May 1, 2019. As this was personally served to the Landlord, I find the Landlord received the forwarding address in writing this same day, May 1, 2019.

I note the Tenant did not authorize any deductions from the security deposit.

Pursuant to section 38(1) of the *Act*, the Landlord had 15 days from receipt of the forwarding address in writing (May 16, 2019) to either repay the security deposit (in full)

to the Tenant or make a claim against it by filing an application for dispute resolution. The Landlord did neither and I find the Landlord breached section 38(1) of the Act.

Accordingly, as per section 38(6)(b) of the Act, I find the Tenant is entitled to recover double the amount of the security deposit (\$325.00 x 2). Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenant paid to make the application for dispute resolution.

In summary, I issued the Tenant a monetary order for \$750.00 based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*.

Conclusion

I grant the Tenants a monetary order in the amount of **\$750.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 7, 2019

Residential Tenancy Branch